

Serial No. 10/710,315  
Attorney Docket No. 70655.1800

### **REMARKS**

Applicants reply to the Office Action mailed on February 9, 2006, within the shortened statutory period for reply. Claims 1-47 were pending and the Examiner rejects claims 1-47. In reply, Applicants amend various claims, add new claims 48-53, and address the Examiner's remarks. Thus, claims 1-53 are now pending in the application. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

### **Double Patenting**

The Examiner provisionally rejects claims 1-47 over claims 1-47 of co-pending Patent Application Serial No. 10/708,827. While Applicants respectfully disagree with this double patenting rejection, in the interest of compact prosecution, Applicants submit a terminal disclaimer, without prejudice, in compliance with 37 C.F.R. § 1.321(c). Applicants also assert that this provisional non-statutory double patenting rejection is based on the above-listed application, which is commonly owned with this application by assignee, American Express Travel Related Services Company, Inc.

### **Claim Rejections**

#### **§112 Rejections**

Claim 11 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for inclusion of the terms "motion" and "body heat" in connection with a voice print sensor. Applicants respectfully traverse this rejection.

Applicants assert that motion and body heat may be used to verify the physical presence of the speaker providing the voice print sample. Applicants amend claim 11 to clarify that "said voice print sensor device is configured to verify a presence of a speaker through detection of at least one of audio noise associated with an electronic device, motion, and body heat." Accordingly, Applicants request withdrawal of the rejection of claim 11 under §112.

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### §103(a) Rejections

Claims 1-9, 12-16, 20-30, 34-42, 43, and 45-47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Black 6,925,565 ("Black") in view of Haala US2005/0005172 ("Haala"). Claims 10, 11, 31, 32, 42 and 44 stand rejected over Black/Haala in view of Sharma U.S. 6,480,825 ("Sharma"). Claims 16, 33, 41 stand rejected over Black/Haala in view of Martizen et al. U.S. 2002/0191816 ("Martizen"). Claim 17 stands rejected over Black/Martizen in view of Moebs et al. U.S. 2005/0065872 ("Moebs"). Claim 18 stands rejected over Black/Haala in view of U.S. Teicher 6,257,486 ("Teicher"). Claim 19 stands rejected over Black/Haala in view of Goodman U.S. 2002/0043566 ("Goodman"). Claims 4, 22, 34 and 40 stand rejected over Black/Haala in view of Black U.S. 2005/0122209 ("Black II").

While Black, Haala, Sharma, Martizen, Moebs, Teicher, Goodman and Black II may disclose various transaction and biometric security technologies, neither Black, Haala, Sharma, Martizen, Moebs, Teicher, Goodman Black II, nor any combination thereof, disclose or suggest at least a "device further configured to determine whether said proffered voice print sample is associated with a preset transaction limitation independent of a financial account transaction limitation" as similarly recited in claims 1, 23 and 35.

Accordingly, Applicants assert that claims 1, 23 and 35 are patentable over the cited references. Similarly, claims 2-22, 24-34 and 36-47 variously depend from claims 1, 23 and 35 and contain all of the respective elements thereof. Therefore, Applicants respectfully submit that claims these are differentiated from the cited references at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-46.

### NEW CLAIMS 48-53

New claims 48-53 variously depend from claims 1, 23 and 35 and contain all of the respective elements thereof. Therefore, Applicants assert that new claims 48-53 are differentiated from the cited references at least for the same reasons as set forth above, in addition to their own respective features.

### CONCLUSION

Applicants respectfully submit that the pending claims (53 total, 3 independent) are in condition for allowance. No new matter is added in this Reply. Reconsideration of the application is thus requested. **The Commissioner is hereby authorized to charge any fees**

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which may be required, or credit any overpayment, to Deposit Account No. 19-2814. Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

Dated: Apr 24, 2006

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